

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CHERYL FOUTTY,)	CASE NO: 5:10 CV 551
)	
Plaintiffs,)	
)	JUDGE DONALD C. NUGENT
v.)	
)	
COMMISSIONER OF SOCIAL)	Magistrate Judge James R. Knepp II
SECURITY,)	
)	MEMORANDUM OPINION
Defendant.)	

This matter is before the Court upon the Report and Recommendation of Magistrate Judge James R. Knepp II (ECF #22). On March 15, 2010, Plaintiff, Cheryl Foutty filed her Complaint challenging the final decision of the Commissioner of Social Security denying her claim for supplemental security income benefits (SSI) under 42 U.S.C. § 1383. Pursuant to Local Rule 72.2(b), the case was referred to Magistrate Judge Knepp.

On June 2, 2011, the Magistrate Judge issued his Report and Recommendation. The Magistrate Judge recommends that the Commissioner's decision be affirmed as Plaintiff's challenges are without merit. Objections to the Report and Recommendation were to be filed within fourteen days of being served a copy of the Report and Recommendation. Plaintiff did not file any objections to the Report and Recommendation.

Standard of Review for a Magistrate Judge's Report and Recommendation

The applicable standard of review for a magistrate judge's report and recommendation depends upon whether objections were made to that report. When objections are made to a report and recommendation of a magistrate judge, the district court reviews the case de novo. FED. R. CIV. P. 72(b) states:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

The text of Rule 72(b) addresses only the review of reports to which objections have been made; it does not indicate the appropriate standard of review for those reports to which no objections have been properly made. The Advisory Committee on Civil Rules commented on a district court's review of *unopposed* reports by magistrate judges. In regard to subsection (b) of Rule 72, the advisory committee stated: "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72 advisory committee's notes (citation omitted).


The U.S. Supreme Court stated in *Thomas v. Arn*, 474 U.S. 140, 150 (1985): "It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings."

Conclusion

This Court has reviewed the Magistrate Judge's Report and Recommendation. After careful evaluation of the record, this Court finds that Magistrate Judge Knepp properly recommended that the Commissioner's final determination be affirmed. Accordingly, the Report

and Recommendation of Magistrate Judge Knepp (ECF #22) is hereby ADOPTED. The Commissioner's final determination is hereby AFFIRMED.

IT IS SO ORDERED.



DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE

DATED: June 23, 2011